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UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 7
	:	02-15749 (SMB)
ASIA GLOBAL CROSSING LTD., <i>et al.</i> ,	:	and 02-15750 (SMB)
	:	(Substantively Consolidated)
Debtors.	:	
	:	
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**APPELLEE CHAPTER 7 TRUSTEE'S COUNTERSTATEMENT  
 OF ISSUES ON APPEAL AND COUNTER-DESIGNATION  
 OF ADDITIONAL ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, appellee Robert L. Geltzer, the chapter 7 trustee (the "Trustee") for the substantively consolidated estates of Asia Global Crossing Ltd. and its wholly-owned subsidiary, Asia Global Crossing Development Co. (collectively, the "Debtors"), sets out below his counterstatement of the issues to be presented on appeal and his counter-designation of additional items to be included in the record on appeal:

**A. Counterstatement of Issues Presented on Appeal**

Without waiver of his right to amend or modify his counterstatement of the issues on appeal, the appellee Trustee states that the issues to be presented on appeal are as follows:

1. Whether the Bankruptcy Court (Bernstein, C.J.) erred by (a) denying, in part, the motion for summary judgment of appellant-claimant 360networks Corporation

(“360networks”) on 360networks’ claim for \$100 million in damages against the Debtors’ estates and/or (b) adhering to that decision after reargument, where, after finding as a matter of law that AGC had anticipatorily repudiated an executory contract with 360networks, the Court applied well-settled law to hold that 360networks was required to prove at trial that it was “ready, willing and able” to perform its contractual obligations at the time of AGC’s anticipatory repudiation in order to recover damages on its claim.

2. Whether the Bankruptcy Court’s finding, after a two-day trial, that 360networks was not ready, willing and able to perform its contractual obligations at the time of AGC’s anticipatory repudiation was clearly erroneous?

**B. Counter-designation of Items to Be Included in Record on Appeal**

Without waiver of any objection to appellant 360networks’ designation of items for inclusion in the record on appeal, the appellee Trustee hereby designates the following additional items to be included in the record on appeal:

**(See chart on next page)**

<u>Date</u>	<u>Docket Number</u>	<u>Document Description</u>
12/12/2002	#87	Schedule of Assets and Liabilities for Asia Global Crossing Ltd.
12/12/2002	#88	Statement of Financial Affairs for Asia Global Crossing Ltd.
12/12/2002	#89	Schedule of Assets and Liabilities for Asia Global Crossing Development Co.
12/12/2002	#90	Statement of Financial Affairs for Asia Global Crossing Development Co.
1/9/2003	#123	Limited Objection of Softbank Corp. Requesting Adequate Assurance of Performance
1/29/2003	#151	Order signed on 1/29/03 approving the terms and conditions of agreement providing for the sale of substantially all of debtor's assets
1/30/2003	#156	Monthly Operating Report for the Period from November 17, 2002 through December 31, 2002
3/3/2003	#178	Monthly Operating Report for the Period from January 1, 2003 through January 31, 2003
4/3/2003	#230	Monthly Operating Report for the Period from February 1, 2003 through February 28, 2003
5/7/2003	#277	Monthly Operating Report for the Period from March 1, 2003 through March 31, 2003
4/26/2005	#603	Notice of Chapter 7 Trustee's Motion for Summary Judgment on Objection to Claim No. 5 of 360networks Corporation
5/23/2005	#630	Supplemental Declaration of Jonathan L. Flaxer in Support of Trustee's Motion for Summary Judgment on Claim No. 5 of 360networks Corporation
11/2/2005	#680	Transcript on 5/24/2005
7/23/2007	#891	Motion in Limine to Exclude the Expert Testimony and Report of Lisa Dadouris
7/23/2007	#892	Memorandum of Law
7/23/2007	#893	Declaration of Jeanne M. Luboja
7/23/2007	#897	Trial Brief in Support of Its Arguments that Claimant Is Entitled to Relief
7/31/07	#905	Memorandum of Law in Support of Expert Witness Kent D. Bressie

NA	NA	<p>All exhibits entered into evidence by the Trustee and 360networks during the course of the trial.</p> <p><u>Trustee Exhibits:</u> H, L, M, N, Q, R, V, W, Y, AL, AV, BG, BU, CM, CN, CO, CV, CW, DE, DF, DI, DQ, DR</p> <p><u>360networks Exhibits:</u> 14, 15, 16, 43, 64, 74, 82, 87, 113, 149, 157, 173, 178, 180, 186, 200, 204, 213, 220, 226, 227, 228, 236, 243, 252, 256, 279, 280</p> <p>***Due to ECF restrictions, the exhibits will be filed as attachments to this document as well as attachments to several ECF documents titled "Statement." These "Statement" documents will be filed immediately following this document.</p>
NA	NA	<p>Trustee's Deposition Designations of Stephen Lentz and 360networks' Counter-Designations</p> <p>***Due to ECF restrictions, the designations will be filed in the same manner as the exhibits described above.</p>

Dated: New York, New York  
February 1, 2008

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